

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

IN RE:)	
)	
ATHEAL PIERCE)	
)	
Debtor.)	
)	
ATHEAL PIERCE,)	CIVIL ACTION NO.
)	2:05cv1014-T
Appellant,)	
)	
v.)	
)	
CURTIS REDDING,)	
)	
Appellee.)	

ORDER

On September 29, 2005, appellant Atheal Pierce filed a notice of appeal of the bankruptcy court's decision to dismiss his bankruptcy petition. The bankruptcy court delivered the record on appeal to this court on October 21, 2005. The court held a status conference on November 9, 2005, during which the court established a briefing schedule that required Pierce to file a brief in support of his appeal by December 9, 2005. The court confirmed

that briefing schedule in an order dated November 10, 2005.

Pierce has not filed a brief in support his appeal as of the date of this order. In the Eleventh Circuit, dismissal of a bankruptcy appeal for failure to file a timely brief is proper only upon a showing of "bad faith, negligence or indifference." In re Beverly Mfg. Corp., 778 F.2d 666, 667 (11th Cir. 1985). In light of the scheduling conference held on November 9, 2005, and the clear terms of this court's scheduling order, it appears that Pierce's failure to file a timely brief is attributable to negligence or indifference to the Rules of Bankruptcy and this court's orders, and not to an excusable mistake.

Accordingly, it is ORDERED that appellant Atheal Pierce show cause, if any there be, in writing by 4:00 p.m. on January 3, 2006, as to why his appeal should not be dismissed for failure to prosecute. Appellant Pierce

is informed that, if he fails to respond to this order within the time allowed, his appeal will be dismissed.

The clerk of the court is DIRECTED to mail a copy of this order to appellant Pierce at his address of record, by certified mail, return receipt requested.

DONE, this the 20th day of December, 2005.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE